

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 536**

Introduced by Bruning, 3

Read first time January 19, 1999

Committee: Urban Affairs

A BILL

- 1 FOR AN ACT relating to sanitary and improvement districts; to amend
- 2 section 31-735, Reissue Revised Statutes of Nebraska; to
- 3 change eligibility requirements for qualified voters; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 31-735, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   31-735. (1) On the first Tuesday after the second Monday  
4 in September which is at least fifteen months after the judgment of  
5 the district court creating a sanitary and improvement district and  
6 on the first Tuesday after the second Monday in September each two  
7 years thereafter, the board of trustees shall cause a special  
8 election to be held, at which election a board of trustees of five  
9 in number shall be elected. Each member elected to the board of  
10 trustees shall be elected to a term of two years and shall hold  
11 office until such member's successor is elected and qualified. Any  
12 person desiring to file for the office of trustee may file for such  
13 office with the election commissioner, or county clerk in counties  
14 having no election commissioner, of the county in which the greater  
15 proportion in area of the district is located not later than fifty  
16 days before the election. No filing fee shall be required. A  
17 person filing for the office of trustee to be elected at the  
18 election held four years after the first election of trustees and  
19 each election thereafter shall designate whether he or she is a  
20 candidate for election by the resident owners of such district or  
21 whether he or she is a candidate for election by all of the owners  
22 of real estate located in the district. The name of such candidate  
23 shall appear on only one ballot. The name of a person may be  
24 written in and voted for as a candidate for the office of trustee,  
25 and such write-in candidate may be elected to the office of  
26 trustee. Such trustees shall be owners of real estate located in  
27 the district. Notice of the date of the election shall be mailed  
28 by the clerk of the district not later than sixty-five days prior

1 to the election to each person who is entitled to vote at the  
2 election for trustees whose property ownership or lease giving a  
3 right to vote is of record on the records of the register of deeds  
4 as of a date designated by the election commissioner or county  
5 clerk, which date shall be not more than seventy-five days prior to  
6 the election.

7 (2) For any sanitary and improvement district, persons  
8 whose ownership or right to vote becomes of record or is received  
9 after the date specified pursuant to subsection (1) of this section  
10 may vote upon establishing their right to vote to the satisfaction  
11 of the election board. At the first election and at the election  
12 held two years after the first election, any person may cast one  
13 vote for each trustee for each acre of unplatted land or fraction  
14 thereof and one vote for each platted lot which he or she may own  
15 in the district. At the election held four years after the first  
16 election of trustees, two members of the board of trustees shall be  
17 elected by the legal property owners resident within such sanitary  
18 and improvement district and three members shall be elected by all  
19 of the owners of real estate located in the district pursuant to  
20 this section. Every resident property owner may cast one vote for  
21 a candidate for each office of trustee to be filled by election of  
22 resident property owners only. Such resident property owners may  
23 also each cast one vote for each acre of unplatted land or fraction  
24 thereof and for each platted lot owned within the district for a  
25 candidate for each office of trustee to be filled by election of  
26 all property owners. For each office of trustee to be filled by  
27 election of all property owners of the district, every legal  
28 property owner not resident within such sanitary and improvement

1 district may cast one vote for each acre of unplatted land or  
2 fraction thereof and one vote for each platted lot which he or she  
3 owns in the district. At the election held eight years after the  
4 first election of trustees and at each election thereafter, three  
5 members of the board of trustees shall be elected by the legal  
6 property owners resident within such sanitary and improvement  
7 district and two members shall be elected by all of the owners of  
8 real estate located in the district pursuant to this section,  
9 except that if more than fifty percent of the homes in any sanitary  
10 and improvement district are used as a second, seasonal, or  
11 recreational residence, the owners of such property shall be  
12 considered legal property owners resident within such district for  
13 purposes of electing trustees, and at the election held six years  
14 after the first election of trustees and at each election  
15 thereafter, three members of the board of trustees shall be elected  
16 by the legal property owners resident within such sanitary and  
17 improvement district and two members shall be elected by all of the  
18 owners of real estate located in the district pursuant to this  
19 section. If there are not any legal property owners resident  
20 within such district, the five members shall be elected by the  
21 legal property owners of all property within such district as  
22 provided in this section. ~~Any~~ No corporation, whether public,  
23 private, or municipal, owning any land or lot in the district may  
24 vote at such election unless at least ninety percent of the areas  
25 in the district are owned for commercial use, in which case the  
26 corporation may vote the same as an individual. For purposes of  
27 voting for trustees, each condominium apartment under a condominium  
28 property regime established prior to January 1, 1984, under the

1 Condominium Property Act or established after January 1, 1984,  
2 under the Nebraska Condominium Act shall be deemed to be a platted  
3 lot and the lessee or the owner of the lessee's interest, under any  
4 lease for an initial term of not less than twenty years which  
5 requires the lessee to pay taxes and special assessments levied on  
6 the leased property, shall be deemed to be the owner of the  
7 property so leased and entitled to cast the vote of such property.  
8 When ownership of a platted lot or unplatted land is held jointly  
9 by two or more persons, whether as joint tenants, tenants in  
10 common, limited partners, members of a limited liability company,  
11 or any other form of joint ownership, only one person shall be  
12 entitled to cast the vote of such property. The executor,  
13 administrator, guardian, or trustee of any person or estate  
14 interested shall have the right to vote. No corporation, estate,  
15 or trust shall be deemed to be a resident owner for purposes of  
16 voting for trustees. Should two or more persons or officials claim  
17 the right to vote on the same tract, the election board shall  
18 determine the party entitled to vote. Such board shall select one  
19 of their number chairperson and one of their number clerk. In case  
20 of a vacancy on such board, the remaining trustees shall fill the  
21 vacancy on such board until the next election.

22 (3) The election commissioner or county clerk shall hold  
23 any election required by subsection (1) of this section by sealed  
24 mail ballot by notifying the board of trustees on or before July 1  
25 of a given year. The election commissioner or county clerk shall,  
26 at least twenty days prior to the election, mail a ballot and  
27 return envelope to each person who is entitled to vote at the  
28 election and whose property ownership or lease giving a right to

1 vote is of record with the register of deeds as of the date  
2 designated by the election commissioner or county clerk, which date  
3 shall not be more than seventy-five days prior to the election.  
4 The ballot and return envelope shall include: (a) The names and  
5 addresses of the candidates; (b) room for write-in candidates; and  
6 (c) instructions on how to vote and return the ballot. Such  
7 ballots shall be returned to the election commissioner or county  
8 clerk no later than 10 a.m. of the first Thursday following the  
9 election.

10           Sec. 2. Original section 31-735, Reissue Revised  
11 Statutes of Nebraska, is repealed.